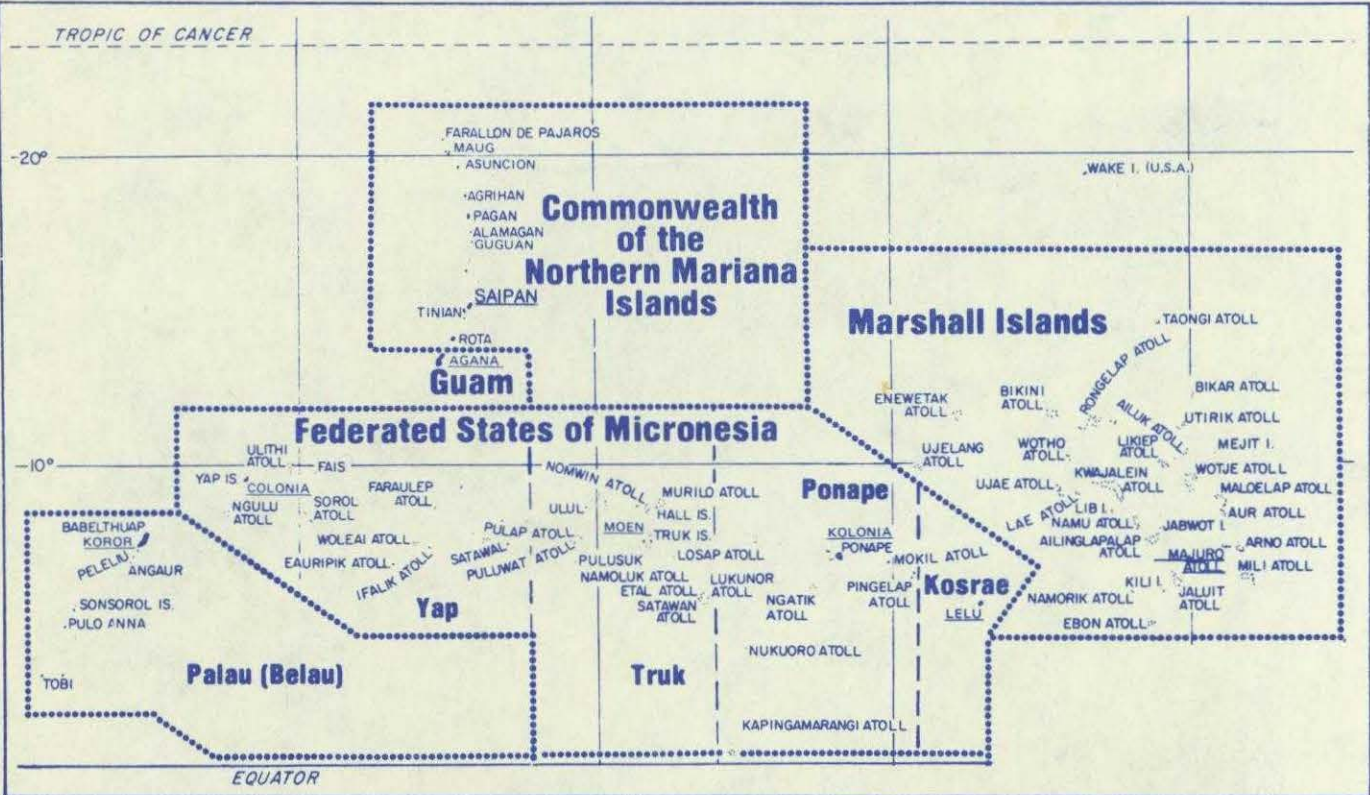




PALAU:

**Self-Determination
vs.
U.S. Military Plans**

A Publication of the
Micronesia Support Committee



This is a publication of the Micronesia Support Committee. Further copies can be obtained for \$1 each (bulk prices available on request) by writing MSC, 1212 University Avenue, Honolulu, Hawaii 96826. (808) 942-0437.

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Photo by Douglas Faulkner

Rock Islands in Palau.

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In the Shadow of the Pentagon

The tiny Republic of Palau, in the far western Pacific, has taken a dramatic step to confront United States attempts to militarize the islands. Their unique Constitution, approved over U.S. objections, bans nuclear weapons and nuclear waste without the approval of 75% of the votes cast in a referendum. The Palauans have effectively created a nuclear free zone around their islands.

But the Constitution is just the latest in a long history of Palauan actions to prevent outside control of their islands. When U.S. military plans for use of 30% of their islands were first announced in 1972, traditional and elected leaders immediately went on record opposing the plans. During the mid 1970's, the 14,000 Palauans were successfully organizing local and international support to turn back a massive oil superport/industrial center planned for Palau, with the support of the U.S. military. And today, after four years of struggle, the people of Palau are still defending the integrity of their Constitution in the face of strong pressures from the U.S. government.

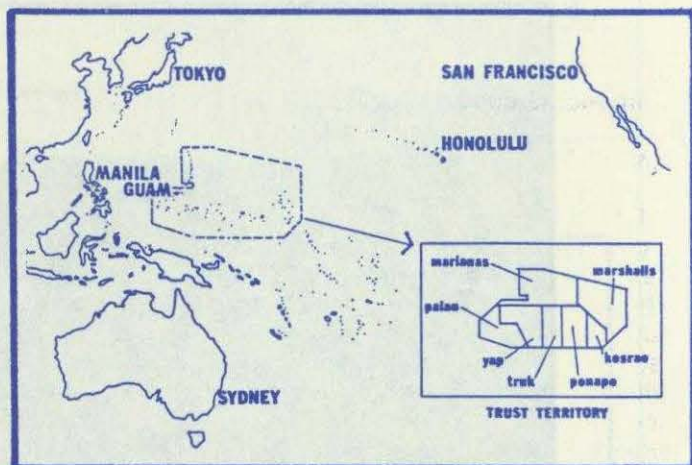
Just 500 miles east of the Philippines and in close proximity to the Asian mainland, Palau is a strategically important island group to the Pentagon. To quell Palauan fears, the U.S. says it has not current military plans for Palau, it only wants "options" to use the land for jungle warfare training, weapons storage and transit and overflight of nuclear vessels and aircraft.

Many Palauans, however, believe the U.S. military will bring another war to Palau. Remembering their experience in World War II, when thousands died and the islands were devastated, older Palauans remark: "When soldiers come, war comes."

Palau's Constitution is a logical step for a people whose life is tied to the ocean and land—and who are confronted with the U.S. military bent on gaining "options" to use a major portion of their limited land. In the shadow of the Pentagon and long isolated from the international media and support networks, the Palauans have consistently struggled to self-determine their future and regain the right to govern their islands. It is now imperative that people and organizations internationally—and especially in the U.S.—support Palau's attempt to maintain its unique, democratically approved, Constitution.

Background

In 1979, the Republic of Palau was the first nation in the world to adopt a Constitution that banned the storage, testing and disposal of nuclear materials within its territory without the approval of 75% of the votes cast in a referendum. The United States State Department has repeatedly stated that the Palau Constitution is "incompatible" with the Compact of Free Association, a treaty that has been developed during 14 years of negotiations. In response, the Palauans initially approved their Constitution by a 92% margin in July 1979. In two separate referenda—



necessitated by U.S. objections to the nuclear ban and other provisions—the Palauans reaffirmed the provisions of their nuclear-free Constitution by 70% and 78% majorities.

The Compact of Free Association, signed by Palau and U.S. government representatives in August 1982, grants Palau more than \$1 billion in aid and a form of self-government in exchange for absolute U.S. military authority over the islands. The Compact also provides the U.S. with an option to use approximately 30% of the island area for military bases, weapons storage facilities, jungle warfare training operations, and transit of nuclear vessels and aircraft.

The U.S., which won Palau and the other Micronesian islands from Japan at the end of World War II, has administered the islands as a United Nations "Strategic" Trust Territory since 1947. The U.S. is seeking to end its role as administrator of Palau under the Trusteeship while retaining strategic military control over this emerging western Pacific nation.

February 1983 Plebiscite in Palau

On February 10, 1983 voters in Palau were the first of the Micronesian districts to vote on the Compact. In a split proposition voters were asked whether they approved of Section 314 of the Compact. Section 314 would allow the U.S. to store nuclear weapons in Palau and the presence of nuclear powered ships or materials. The vote on this proposition (53%) fell far short of the 75% approval required by the Palauan Constitution. The other part of the split proposition asked voters to review the Compact as a whole. 62% of the voters voted for the Compact. However, the ballot itself stated, "Before, the Compact can take effect Section 314 . . . must also be approved by at least 75% of the votes cast." Since Section 314 lost by a substantial margin—the Compact cannot take effect. After 14 years of negotiations the political status of Palau remains unsettled.

On February 25, the Senate of the Palau National Congress (OEK) passed Resolution #87. The

resolution stated that the **citizens** of Palau had disapproved the Compact. The same resolution stated that the Senate had also disapproved the Compact. The resolution went on to call upon the President of Palau and Palau's traditional leaders to renegotiate the political status of the islands. The Traditional Council of Chiefs and the High Chief Ibedul have stated the Compact is dead.

United States' Position

Following the plebiscite, the State Department characterized the separate nuclear question on the ballot as merely an "internal referendum question." The State Department further argues: "The Palauan authorities must now devise an acceptable method of reconciling their constitutional provisions to comply with the mandate of the Palauan electorate for free association with the United States." International law expert Roger Clark commented in March 1983: "I believe this to be a serious distortion of the results of the vote," adding that "the United States, having acquiesced in, or perhaps even insisted upon, the way in which the issue was presented to the voters, is surely bound by the results." (See "Legal Implications of Palau Vote") Nevertheless, the State Department has set up transition offices in Palau (and other parts of Micronesia) to begin implementation of the Compact, in spite of its rejection by voters and prior to review and approval by the U.S. Congress.

"The United States is so concerned about its military options, it has steadfastly refused to accept the people's wishes. We have said no four times to the United States' nuclear intentions in four referenda in four years. When will we be heard? We have voted democratically and the United States must accept our vote. Does democracy apply only in the United States and not in Palau?"

"The Palauan people need time to decide on their own kind of government and economy without interference. We call upon the Trusteeship Council of the United Nations to support our right to choose the future of Palau, rather than support the attempts of the United States to determine our future for us."

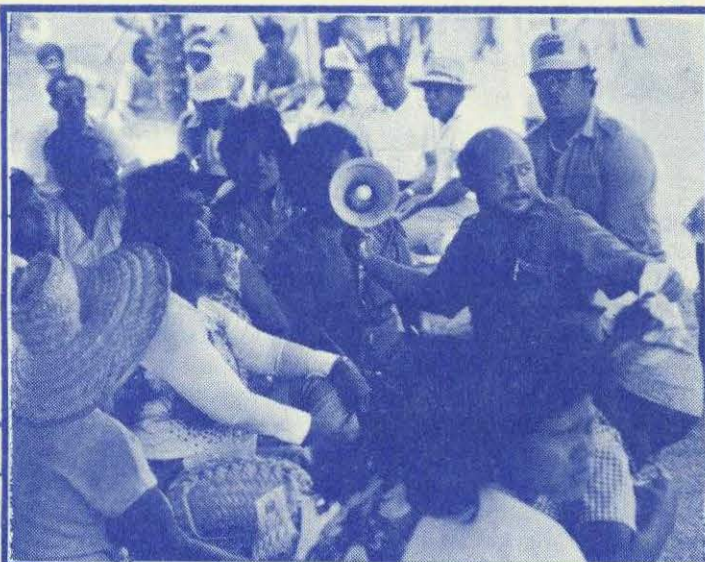
—Bernie Keldermans, Educator and Koror Councilwoman, United Nations Trusteeship Council, May, 1983.

U.S. Involvement in the Palau Plebiscite Process

U.S. officials stated on numerous occasions that they had no part in the plebiscite process, when in fact the U.S. was involved in all phases of the plebiscite:

- According to a Palau Supreme Court ruling, ballot wording for the plebiscite drafted by the Palau National Congress "was rejected outright by the U.S." and U.S. State Department Ambassador Fred Zeder, in a November 11, 1982 cable, instructed the Palau Government to change the wording. This U.S. directed wording was later declared misleading and illegal by the Palau Supreme Court just 10 days before the plebiscite.

Photo by Angela Gennino



Palauans rally February 3 to demand the plebiscite on the Compact of Free Association be postponed.

- Over \$439,000 dollars was appropriated for a "voter education" program which degenerated into a pro-Compact campaign. Of that sum \$315,000 was directly allocated by Interior Assistant Secretary Pedro Sanjuan via the High Commissioner, Janet McCoy. **This compares with the \$400,000 recently spent by the electoral commission in El Salvador of which \$240,000 was a direct allocation from the U.S.** The people of El Salvador number 5 million, the people of Palau number 15,000. Palauan law 1-43 limited all spending on the plebiscite to \$250,000.
- The so-called political "education" became a one-sided promotion of the Compact, as demonstrated by a "People's Fact Sheet" in Palauan and English published by the Palau Government in January, 1983. This document stated all the benefits of the Compact but none of the drawbacks. For example, it pointed out the many immigration rights Palauans would have for travel and employment in the U.S., without mentioning that Americans would have the same rights in Palau.
- The Dept. of Interior and the United States Information Agency (USIA) hired a four member "plebiscite expert team" to monitor the plebiscite.

Plebiscite Irregularities

In the haste and under U.S. pressure to proceed quickly to conclude the plebiscite numerous irregularities concerning voting procedures and ballot collection occurred. Confusion marred the plebiscite process:

- The date of the plebiscite was changed four times.
- The official Rules and Regulations for the plebiscite were changed four times, once three hours **after** the polls were open.
- Five Palauan Senators have filed a civil complaint seeking the return of over \$200,000 in mis-allocated or unauthorized expenditures of the public "voter education campaign."
- There were numerous irregularities in the conduct of the absentee vote which amounted to nearly a fifth (1,300) of the total 7,200 votes cast.

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Self-Determination, U.S. Style

When the Palau National Congress on November 9, 1982 approved the wording for the ballot (according to Public Law 1-43 governing the plebiscite), the U.S. Ambassador Fred Zeder cabled the Palau Government on November 11 instructing it to change the wording used. According to the January 31 Palau Supreme Court decision, Palau "Ambassador Salii has testified that the wording in Republic of Palau Law No. 1-43 was **rejected outright by the United States and it was insisted that the wording incorporated in the cable of November 11, 1982 be placed on the ballot.**" (Emphasis added.)

More than six weeks later on December 20, in a successful effort to counter requests for a postponement and insure U.N. observation thus legitimizing the controversial plebiscite, the United States' representative to the U.N. Trusteeship Council told that body:

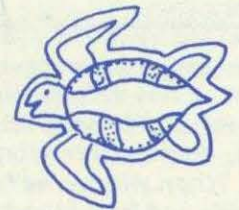
The United States is not conducting the plebiscite; the Government of Palau is

conducting it. Naturally, we had discussions with the Palauans about the language of the ballot, **but that language, in the last analysis is theirs; they are the ones who are deciding how to put the matter to their people...The second question on that ballot was phrased according to their wishes, and since they are the constitutionally elected Government we shall have to accept it as is.** (Emphasis added.)

The ballot wording was **not** Palauan, it was dictated by the U.S. State Department. Had two Palauan elected leaders not successfully taken the issue to the Palau Supreme Court, the Palauan people would have been faced with a "completely misleading statement" on the ballot, said international law expert Roger Clark. That the United States should deceive the U.N. to get its approval for the plebiscite shows a strong contempt for democratic processes.

POLITICAL EDUCATION

Contrary to State Department assertions that the people of Palau, after 14 years of negotiations, are "fully familiar" with the Compact, numerous Palauans charge that there was inadequate time to understand the implications of this lengthy document. In January, the Palau Senate passed a bill to delay the vote in part because "the political education process has been slow, inadequate and misleading."



Sign used in Palau Compact campaign depicts life under the military if the Compact is approved and urges a "no" vote. Note the man handing the military guard a pass.

Photo by Angela Gennino

THE PENTAGON STALKS MICRONESIA:

Strategic Interests vs. Self-Determination

by Giff Johnson

If forward military bases are the achilles heel of United States foreign policy, then the Micronesian islands are destined to be a region of increasing struggle in the 1980's and 1990's. With major U.S. military installations in Guam and the Marshall Islands, and bases planned for Tinian, other parts of the Mariana Islands and Palau, Micronesia may become one of the most densely militarized regions in the Pacific. These bases, strategically located along the Asian periphery, will provide the U.S. with staging grounds for future intervention into Asia.

But stepped up campaigns by Micronesians and other Pacific Islanders in support of nuclear free zones and demilitarization are putting U.S. military plans in jeopardy. It is not surprising, therefore, that in 1982 former U.S. ambassador to Fiji, William Bodde, asserted that the U.S. must "do everything in its power to counter the Nuclear Free Pacific movement."

Although during the 1950's and 1960's, U.S. policy makers considered the Pacific to be a region of relatively little importance, by the 1970's that had changed. In 1973, U.S. Secretary of State James Schlesinger said: "The region not only surrounds the access routes to Guam, but also those to the Near East, and our sources of Asian raw materials can be controlled from Micronesia. Moreover, a north-south line of communication, of greater and greater importance, passes through the region, linking our Northern allies, Japan and Korea, to our allies in the South,

Australia, New Zealand, the Philippines and Indonesia. In the strong sense of the term, the U.S. must remain a Pacific power."

Additionally, with the growing economic importance of the Pacific region, American officials no longer view Micronesia solely for its strategic value. The economic potential, as yet untapped, of the islands which cover three million square miles of ocean area, are an underlying reason for U.S. attempts to gain permanent military control of Micronesia.

Micronesia, consisting of the Federated States of Micronesia, Republic of Belau, Republic of the Marshall Islands and Commonwealth of the Northern Marianas (Guam has been a U.S. Territory since 1898), has been governed by the U.S. under a United Nations Trusteeship Agreement since it took the islands from Japan at the end of World War II. The only "strategic" Trust Territory established, it allows the U.S., in its administration of the islands, to bypass the General Assembly which has increasingly supported independence and liberation movements. The U.S. reports directly to the Security Council where it retains veto power. The Micronesian governments are now in the final stages of deciding their future political status, a process that has spanned more than 13 years.

Unlike Micronesia's three previous colonial rulers (Spain, Germany and Japan) the U.S. has not exploited Micronesia for economic gain. Rather, the is-

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lands have been used for their military value. While ignoring its U.N. mandate to develop the islands towards self-sufficiency and to "protect the inhabitants against the loss of their lands and resources," the U.S. was busy blowing up 66 atomic and hydrogen bombs in the Marshall Islands. During the 12 year nuclear testing program, 6 islands were blown off the face of the earth, while many others were rendered uninhabitable. Moreover, hundreds of Marshallese citizens today suffer from the severe aftereffects of radiation exposure.

Further, during the 1950's, the CIA ran a secret counterinsurgency base on Saipan, training Chinese nationalists to retake the China mainland. And since the early 1960's, the Kwajalein Missile Range in the Marshall Islands, used to test all of the U.S.'s long range Intercontinental Ballistic Missiles, has been at the center of all U.S. nuclear war strategies.

In contrast to the earlier Japanese administration, economic activity in Micronesia during the 1950's was virtually non-existent. But the Kennedy administration dramatically reversed past policies and in the early 1960's millions of dollars and hundreds of federal programs began pouring into the islands. Reacting to pressure from the U.N. and anti-colonial sentiment sweeping the world, Kennedy instituted these changes. But according to National Security Memorandum 145, the goal was to bring Micronesia into a "permanent relationship" with the U.S. by accelerating "development of the area to bring its political, economic and social standards into line with an eventual permanent association."

Today, more than \$130 million flows into Micronesia annually for a population of 130,000. That this "aid" policy has succeeded is evident in the large amount of aid, but lacking economic base, although the Islanders were once self-sufficient. Indeed, Micronesia is now dependent on the U.S. for about 90 per cent of its aid. In this atmosphere of economic dependence, the Micronesians began negotiating with the U.S. in 1969 to change their status as a Trust Territory.

During the 13 years of often stormy political status talks between the U.S. and Micronesia, the U.S. has worked to maintain ultimate control of Micronesia. Schlesinger described the U.S. view of the political status talks as "only to change the form of (the) agreement while retaining the basic objective and responsibility we have had for nearly 30 years." To accomplish this, in the early 1970's the U.S. offered the Micronesians a commonwealth package, similar to Puerto Rico's political status. This was flatly rejected by island leaders in favor of independence, except in the Marianas where there was sentiment for closer ties with the U.S. With the U.S. military position in Asia weakening, the Pentagon was anxious to firm up a strong "fallback" position, which Micronesian independence demands were threatening. In late 1972, the U.S. quickly entered into separate negotiations with the Marianas. U.S. plans to turn Tinian Island

into a key Air Force base became a major focus of the talks.

Commented one defense planners in 1974: "Given the changing regional power structures of Pacific-Asia, and the probability of major military adjustments by the United States from our present forward positions, it is quite conceivable that in ten or twenty years the entire U.S. Pacific presence will be centered on a Guam-Tinian axis."

Opposition from Tinian farmers and students, however, stymied U.S. plans to take the entire 40-square mile island and relocate the 900 residents. The U.S. agreed to reduce its plans to 2/3 of the island, but it still includes the best farming land on the island. A commonwealth agreement was signed by U.S. and Marianas leaders in 1975 and in a hurried plebiscite, 78 per cent of the voters approved the new status. The agreements allows for construction of the base at any time. Although no construction has officially begun, the U.S. Congress in November 1982 voted the \$33 million necessary to exercise its 50-year lease on Tinian land, paving the way for the base.

Tinian has been described by a Trust Territory agronomist as having the most fertile farming land in all of Micronesia. But a 1974 social impact study by the U.S. Air Force commented that if the base is built, "agriculture activities will be severely limited and the present standard of living will deteriorate. . . The breakdown of family ties, personal conflicts and social problems because of urbanization, competition and cultural transition will increase. . ."

Status Negotiations Solidify U.S. Control

Since World War II, the prime U.S. interest in Micronesia has been strategic "denial" — that is, the power to deny entry to the islands by any other nation for military purposes. But with the eroding of U.S. power in Asia, U.S. planners began looking at the Micronesian islands along the Asian periphery as sites for active military installations. A 1973 U.S. Army War College report concluded that: "The only feasible fallback position (from Asia) is unquestionably located in Micronesia, where island bases, unlike those in S.E. Asia, would be under permanent U.S. control . . . Palau has excellent anchorages, Ponape and Babelthuap (sic) have land areas in excess of 100 square miles and are suitable for nuclear weapons storage and training areas. . ."

Bases in Belau and the Marianas became a focus of U.S. attention during the political status talks. Meanwhile, the focus of American economic activity in Micronesia became the building of basic infrastructure, which, some writers observed, was designed to support the military. Military civic action teams began working in all parts of the Trust Territory on goodwill development projects. Roger Gale, the former Director of Friends of Micronesia, pointed out that "an interesting pattern emerged. Army engineering teams became responsible for civic action in the



Chief Agifaru of Faranlap Atoll in this picture from 1946, has just received an American flag. The common experience of foreign administration has greatly enhanced cooperation between various Micronesian countries despite linguistic and cultural differences. (From Micronesia's Yesterday, published by the Trust Territory Department of Education, Saipan, 1973.)

Marshall Islands where Anti-Ballistic Missile testing is done under the Army, Navy Seabees work in the Carolines where naval port facilities and Marine training sites are planned, and Air Force teams operate in the Marianas where reconstruction of World War II airbases on Tinian and Saipan are in the cards."

But the U.S. was working covertly as well to insure military control of Micronesia. In 1973, Secretary of State Henry Kissinger had directed the CIA to "assess the possibility of exerting covert influence on key elements of the Micronesian independence movement where necessary to support U.S. strategic objectives." Later the intelligence agencies were caught bugging, hiring as informants and attempting bribery of key Micronesian leaders. A U.S. Congressional investigation into the CIA activity reported that the CIA recruited "Micronesian residents, some with affiliations with Micronesian political entities," and that at least one of the informants "served on one of the island government entities developing a compact with the U.S. as to future status."

The chief U.S. negotiator, F. Haydn Williams, insisted that he was unaware of the CIA activities and was not provided any information. Nevertheless, Williams, when appointed by President Nixon to be U.S. Ambassador to Micronesia, was the President of the Asia Foundation, an organization created by the CIA in the 1950's.

Because of the Micronesians overwhelming dependency on American aid, they have been forced to accept a status that falls far short of independence. From the mid-1970's on, the status talks focused on developing a "Compact of Free Association," which would grant the Micronesians internal and foreign affairs control, to the extent this doesn't conflict with overriding U.S. authority for defense of the islands.

Up to 1980, the pact was negotiated to last for a period of 15 years. Suddenly in late 1980, influential members of the U.S. Senate demanded that military denial rights be guaranteed to the U.S. in "perpetuity." The Micronesian negotiators were severely alienated, viewing this as a last minute demand that significantly altered the agreement. Faced with strong opposition, the U.S. negotiators dropped their demand for denial to 100 years.

The Reagan administration, however, has taken a much stronger public position than earlier administrations on military rights, demanding denial powers for the "longest possible period." The Compact is well suited for the Pentagon because it ostensibly grants the Micronesians autonomy in internal and foreign affairs, while providing the U.S. with absolute authority for military affairs, including veto power over any Micronesian action in conflict with this authority. In exchange, the Micronesians will receive hundreds of millions of dollars during the life of the Compact — a period of 15, 30 and 50 years for the Federated States, Marshalls and Belau respectively.

Clearly long term military denial, with guaranteed funding aid for only a short period, will undermine Micronesia's future bargaining position. Despite this, faced with severe Reagan administration budget cuts, beginning in May and ending in October 1982, the Marshalls, Belau and the Federated States all signed the Compact with *permanent* military denial agreements.

The Battle for Belau

Shortly after the U.S. announced specific plans for military use of about 30 per cent of land in Belau in

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1972, more than 50 traditional and elected leaders declared their opposition to the plans: "Whereas, the people of Palau have no desire to have military installations and personnel on Palauan land . . . because this could result in suffering for human beings within or without Palau . . . We hereby declare that we are unequivocally opposed to the use of land in Palau by the United States military . . ."

U.S. plans, outlined in the Compact, include use of 32,000 acres of land on Babeldaob Island for jungle warfare training, weapons storage and other purposes; the main commercial port in Koror; the 2 airports in Angaur and Babeldaob; and access rights of way in or near four villages on Babeldaob for troops, tanks and amphibious landing craft on training exercises.

Military plans are in stark contrast to the subsistence living of the majority of Belauan people. Particularly as the plans to extend the Angaur runway from 9,000 to 12,000 feet will destroy current taro farms on the small 3 square mile island. Moreover, under normal conditions the U.S. is granted "the right to take reasonable and necessary measures for (the) establishment, operation and maintenance" of the port, airfields and Babeldaob military bases. These wide-ranging powers can be used to regulate and disrupt day-to-day activities of the Belauan people such as farming or fishing, if in conflict with military operations. The military will have rights of way in or near four villages for landing assault troops and equipment for war training on Babeldaob. Indeed, the 30,000 acre jungle warfare area encompasses all of the numerous villages in 5 states on Babeldaob.

Additionally, the U.S. is allowed to store nuclear weapons in Belau on ships or aircraft transiting Belau "during a national emergency declared by the President of the United States, during a state of war declared by the U.S. Congress, in order to defend against an actual or impending armed attack on the United States or Palau including the threat of such an attack, or during a time of other military necessity as determined by the Government of the United States." The language of the Compact is misleading because it gives the impression that nuclear weapons will not be allowed into Belau except in extreme emergencies. But Belauans ask "couldn't the storage of nuclear weapons in Belau always be considered a 'military necessity'?" And it is the U.S. which retains ultimate power to decide when nuclear weapons will be stored in Belau.

Radioactive waste disposal, with few restrictions, is also allowed under the Compact. Again, the technical language used appears to prevent the U.S. from dumping low or high level wastes in the waters or lands of Belau. In fact, however, the Compact allows the storage of high level radioactive waste in certain parts of Belau if below a certain quantity and the disposal of low level radioactive wastes into the ocean with an Environmental Protection Agency permit. Given the Reagan administration attempts to gut EPA safety regulations governing toxic wastes, the EPA is

unlikely to provide much protection for the Belauans.

But opposition to another threat took precedence over the military plans during the mid-1970's. Major Japanese corporations, including Nissho-Iwai and the Industrial Bank of Japan, along with U.S. and Iranian interests planned a massive oil storage/refinery/transshipment superport (CTS) for Belau. Belau's natural deep water harbors, location astride the new super-tanker route from the Middle East to Japan, small population and lax environmental laws all contributed to the selection of Belau over numerous other sites. But the most important consideration, according to Japanese investors, was the expectation that Belau would be controlled by the U.S. military for at least a generation to come.

Not surprisingly, key military officials endorsed the multi-billion dollar superport project. Admiral Kent Carroll, Commander of U.S. Forces in the Marianas, visited Belau in late 1975 and commented: "The U.S. is certainly not opposed to it. . . I predict the preliminary studies will show it's a viable concept . . . I think it will be difficult for the Palauans to turn down. . ." An EPA memo on the superport noted that "the Defense Department likes the idea, and sees it as supportive of their own elaborate designs on Palau as a military installation." In fact, military researcher Robert Aldridge, who speculates the Navy wants Belau as a forward base for the Trident submarine, suggested the public support military officials gave to the superport was a cover for their own plans for Belau.

The military demonstrated that it was more than casually interested in this project. In March, 1976, Guam's *Pacific Daily News* exposed Navy Intelligence attempts to bribe the High Chief of Belau and a *Daily News* reporter to spy on people in connection with U.S. military plans. The offers were turned down, but there may have been other takers.

Despite the involvement of influential Belauan businessmen, who assured the Japanese, Iranian and American businessmen of their "active support and cooperation" in developing the superport, strong grass roots opposition spread throughout Belau. The opposition was fueled, in part, by statements of American officials, such as Naval Commander David Burt, who said during a 1976 visit to Belau: "There are millions of people in Japan and only 14,000 in Palau. It may be necessary to sacrifice those 14,000."

Belauans were faced with the prospect of 39 per cent to 74 per cent of their 188 square miles of land being taken over by the military and the multinational oil industry. Summing up many Belauans feelings, a petition from Belau's traditional leaders said the superport "would cause changes in the economic, social, cultural and environmental aspects of Palauan life of a magnitude unprecedented in Palau's history with the possible exception of World War II."

The superport was one of the first Micronesian issues to spark widespread international outcry from environmental, human rights and other organizations.



Photo by Angela Gennino

In October, 1979 Palau voters overwhelmingly rejected a "sanitized" constitution that was written to satisfy U.S. objections to the nuclear ban and other provisions in the first Constitution.

Together with the "Save Palau Organization", this opposition forced the Japanese to shelve the project, possibly only temporarily. The Japanese government which wants to increase its oil storage capacity as a hedge against future embargoes, has not found the needed increase in oil storage capacity inside Japan. Faced with strong citizens movements, the Japanese government has decided that the export of unwanted industry is the easiest way to solve its energy problems.

But it was not alone the superport opposition that prevented the Japanese from developing the port. In 1979, a popularly elected Constitutional Convention drafted the now highly publicized constitution banning entry, storage or use of nuclear weapons or waste in Belau without the express approval of 75 per cent of the votes cast in a referendum on this question. The constitution also banned eminent domain powers of the government if it was for the "benefit of a foreign entity", a clause clearly aimed at stopping the military and superport project.

The U.S. State Department quickly opposed the constitution, stating that the "proposed language could cause problems of the utmost gravity for the U.S." The U.S. pressed the Belau Legislature, stating the constitution was "incompatible" with the Compact of Free Association, then in draft form, and thus had to be modified. U.S. Ambassador Peter Rosenblatt flew to Belau meeting in a closed session with the Legislature while hundreds of Belauans demonstrated outside the Legislature, protesting U.S. interference with their right to self-determine their future. Rosenblatt made it clear to the legislators that the U.S. would make no financial commitments for an independent political status.

The economic threat was clear to many of the legislators who then voted to void the constitution. The Peoples Committee for the Palau Constitution, con-

sisting of Con-Con members, teachers, traditional leaders, students and others, formed to support the constitution. In spite of the Legislature's action, the scheduled July 9 referendum went ahead with U.N. observers, and the constitution was ratified by the unprecedented margin of 92 per cent.

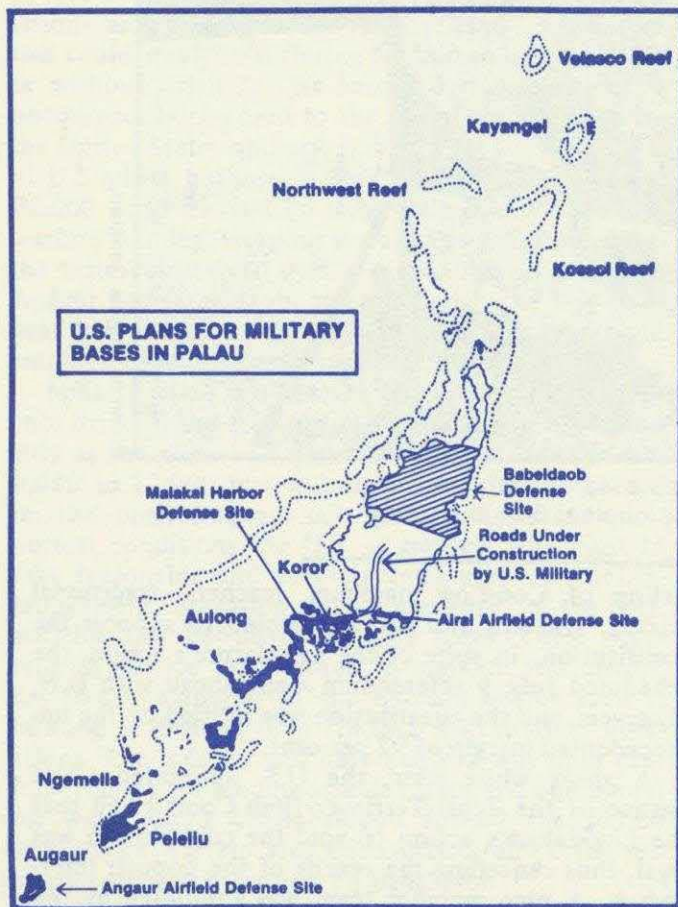
A short while later, the U.S. appointed Chief Justice of the Trust Territory High Court ruled that the Legislature's action to void the constitution was legal, thus cancelling the results of the popular referendum. A nine member team was appointed by the Legislature which re-drafted the constitution, deleting all the provisions objected to by the U.S.

For this revised constitution, the Belau Legislature appropriated \$100,000 for "political education" of Belau's 7,000 voters, although it had refused to release the \$26,000 needed for education on the original version. Nevertheless, on October 23, 1979 Belauans went to the polls again and 70 per cent rejected this revised constitution, demonstrating their support for the original nuclear free version. One observer noted, "The Palauans ate at the barbeques but voted their conscience." In a major political turn around, pro-nuclear free constitution candidates swept U.S. supporters out of office during elections at this time. And a year later, on July 9, 1980, the original constitution was again ratified by 78 per cent of the voters.

The Compact of Free Association is fundamentally at odds with the Belau constitution because it grants the U.S. the right, with few restriction, to use the ports and airfields for nuclear warships and aircraft, to store conventional and nuclear weapons on the islands, and to use the islands for a jungle warfare training base. There is speculation that Belau could become an Asian counterpart to the U.S. Army's School of the Americans in Panama, where tens of thousands of military personnel from repressive Latin American

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U.S. Military "Rights" in Palau



From the Compact:

Land Use and Operating Rights Within Defense Sites Article IV

"1. The defense sites provided by the Government of Palau to the Government of the United States described in the attached annexes are designated for the following categories of uses:

"(a) Exclusive-use areas - areas which are reserved exclusively for use by the Government of the United States, subject to the limitations set forth in this Agreement;

"(b) Joint-use areas - areas which may be used jointly by the Government of Palau and the Government of the United States, subject to the limitations set forth in this Agreement;

"(c) Non-exclusive-use areas - areas for intermittent use by the Government of the United States, subject to the limitations set forth in this Agreement..."

Exclusive-Use Areas:

1. Malakal Harbor: 40 acres of dry and submerged land
2. Ngardmau: 1,400 acres
3. Ngaremlengui: 600 acres
4. Airai Airport: 65 acres
5. Angaur Airport: 65 acres

"The Government of the United States shall permit the presence of nuclear weapons in Palau only incident to transit and overflight, during a national emergency declared by the President of the United States, during a state of war declared by the Congress of the United States, in order to defend against an actual or impending armed attack on the United States or Palau including a threat of such attack, or during a time of other military necessity as determined by the Government of the United States..."

Military Use And Operating Rights Within Exclusive-Use Areas Article V

"1. The Government of the United States has access to and unrestricted control of all exclusive-use areas, including the right to control entry to and exit from any or all exclusive-use areas and the right to take reasonable and necessary measures for their establishment, use and operation. The Government of the United States may take, within the exclusive-use areas and within the seabeds, water areas and air space adjacent to or in the vicinity of the exclusive-use areas reasonable and necessary measures for their use, security and defense. These measures include the right:

"(a) To maintain the exclusive-use areas and to construct structures and improvements thereon;

"(b) To improve and deepen the harbors, channels, entrances, and anchorages, to dredge and fill, and generally to fit the premises to their intended use;

"(c) To control, so far as may be required for the efficient operation of the exclusive-use areas, anchorages and moorings, the movements of ships and waterborne craft, aircraft operations and land movements...

"2. In conducting activities in exclusive-use areas, the Government of the United States shall use its best efforts to:

"(a) Avoid interferences with commercial activities in Palau;

"(b) Avoid interferences with access by fishermen to shoreline areas;...

"(e) Minimize damage to the terrain and to reef areas;

"(f) Avoid unreasonable harm to the environment, including water areas..."

"Minimize" damage to lands and reefs and "avoid unreasonable" harm to the environment are ambiguous terms used in Article 5, Section 2. Nor are Palauans given any means for overseeing or enforcing the U.S. "best efforts" to protect the lands and reefs.

of the Compact is Implemented

From the Compact:

Non-Exclusive Use Areas:

- a) 30,000 acres in northern Babeldaob;
- b) 4 beach access rights of way in or near Ngiwal, Ulimang, Melekeok and Keklau

Military Use and Operating Rights Within Non-Exclusive-Use Areas Article VII

"2. During periods of use the Government of the United States may, within non-exclusive-use areas, control, so far as may be required for efficient conduct of the planned use, the use of anchorages and moorings, the movement of ships and waterborne craft, aircraft operations and land movements.

"3. In conducting activities in non-exclusive-use areas, the Government of the United States shall, in consultation with the Government of Palau, use its best efforts to:...

"(e) Minimize damage to the terrain and to reef areas and restore, where practicable, such areas to their prior state;

"(f) Avoid unreasonable harm to the environment, including water areas;

"11. The Government of the United States may invite members of the armed forces of other countries to use defense sites pursuant to this Agreement, in conjunction with and under the control of the United States Armed Forces. Use by units of the armed forces of other countries of such defense sites, other than for transit and overflight purposes, shall be subject to consultation with and, in the case of major units, approval by the Government of Palau."

The Government of the United States may use nuclear power plants or reactors in Palau on military ships or vessels under the ownership or control of the Government of the United States..."

From the Compact:

Joint-Use Areas:

1. All anchorages in Malakal Harbor;
2. Roads connecting the two exclusive-use areas in Ngardmau and Ngaremlengui;
3. 555 acres in and around Airai Airport;
4. 555 acres in and around Angaur Airport

Military Use and Operating Rights Within Joint-Use Areas Article VI

"1. The Government of the United States shall have access to and use of joint-use areas, including the right to take reasonable and necessary measures for their establishment, operation and maintenance.

"(a) After consultation with the Government of Palau, the Government of the United States may take, within these areas and within the seabeds, water areas and air space adjacent to or in the vicinity of these areas, reasonable and necessary measures for their use, security and defense...

Annex D

2. (The U.S. is granted) "Joint use of entire airfield area including right to extend runway to 12,000 feet, and the right to improve to meet military requirements and specifications. If any extension of the runway displaces existing taro-growing area, the Government of the United States shall provide for the construction of a comparable taro-growing area on such land as is provided for that purpose by either the owner of the displaced taro-growing area or by any government entity in Palau. Any runway extension shall provide for land access between the lands on either side of the defense site."

Article 7, Section 5 states that Palauans will have "full and free" use of the 30,000 acres on Babeloab. But Palauans will only be able to build permanent structures after "consultation" with the United States.



regimes have trained. Belau's location near the Philippines, South Korea, Taiwan and other Asian nations makes it well suited for this.

Of equal importance is the possible future use of Belau as a staging ground for intervention of U.S. forces into Asia. Guam was the launching site for dozens of daily B-52 bombing raids during the Indochina war, and Belau could be used as a backup for similar purposes.

Even in the limited capacity of a transit base for nuclear warships and aircraft puts Belau squarely on the map as a nuclear target. Belauans are fearful of this, having experienced the devastating U.S. attacks on Japanese military fortifications in their islands during World War II. Like the Americans, the Japanese promised that the bases would defend Belauans. The result, however, was just the opposite, as the Japanese military bases drew American attacks.

Nevertheless, the Pentagon is confident Belau voters will support the Compact and has sent numerous Defense planners on tours of the proposed bases. One resident of Ngardmau Village on Babeldaob Island, where the military plans a munitions storage base, commented: "No one has consulted with us to say you are the landowners and we want to talk with you. All kinds of people come in making surveys of the land and ocean but they never tell us what they're doing."

In view of the strong support shown for the nuclear free constitution passage of the Compact

would appear impossible. But in the final version of the Compact, signed by U.S. and Belau negotiators on August 26, 1982, the U.S. has attempted to lure in more Belauans by offering a greater financial aid package than previously agreed. Instead of limiting economic assistance to 15 years, the U.S. has agreed to provide funds totalling about \$23 million annually for 50 years, plus four payments of \$5 million each as military "impact assistance". This represents a substantial increase in Belau's current budget and may be appealing to government workers who comprise the majority of the work force and are threatened by Reagan's budget cuts.

If the Compact is approved, with its 50-year military pact, and *permanent* military denial rights for the U.S., Japanese business interests are certain to renew attempts to construct the oil superport in Belau. As an American Embassy official in Japan said, "Without the protection of the U.S. Navy, it will never be built."

Biographical note: Giff Johnson is a free lance writer who has been published in the *Bulletin of the Atomic Scientists*, *The Nation*, *Pacific Magazine*, *Pacific Islands Monthly* and others. He recently returned from a 3-month research trip throughout Micronesia.

(Excerpted from *AMPO - Japan/Asia Quarterly Review*, Vol. 14, No. 4, 1982. A reprint of the entire article is available. See page 22.)



Photo by Angela Gennino

Palauans calling for a postponement of the February 10 plebiscite, citing "inadequate and misleading" political education on the Compact.

In 1979 . . .

How America Killed a Constitution

By Francisco T. Uludong

IN THE REMOTE Pacific islands of Micronesia, the United States is undercutting its own professed ideals of democracy and human rights...

The most flagrant example is in Palau, an island district of nearly 15,000 residents. Shortly, the citizens of Palau will go to the polls to vote on a new constitution, written to U.S. specifications after the Carter administration, acting through an illegally convened local legislature, succeeded in killing an earlier constitution which the people overwhelmingly ratified in July.

The story is complicated and almost unknown outside the islands. It began six months ago.

In April, a popularly elected constitutional convention, approved and partly funded by the U.S. government, completed a constitution which, among other things, would ban storage in Palau of nuclear weapons, nuclear wastes and other deadly weapons of war, establish a 200-mile territorial jurisdiction and impose stringent controls on acquisition of lands for U.S. military bases. The United States, which wants to preserve transit rights for its aircraft and nuclear-powered ships and to continue to set aside land for possible future bases, opposed these provisions during the convention. Shortly after it adjourned, U.S. Ambassador Peter Rosenblatt traveled to Palau and, in a closed-door, heavily guarded session with the Palau legislature, restated the strong American opposition to the constitution.

In June, the legislature, meeting without the 25-member quorum required by its charter, voted to nullify the constitution and a popular vote on it scheduled for July 9 on the grounds that the document failed to meet U.S. objectives. A pro-constitution group, composed of nearly the entire convention that wrote the constitution, filed a lawsuit to void the legislature's action. After the

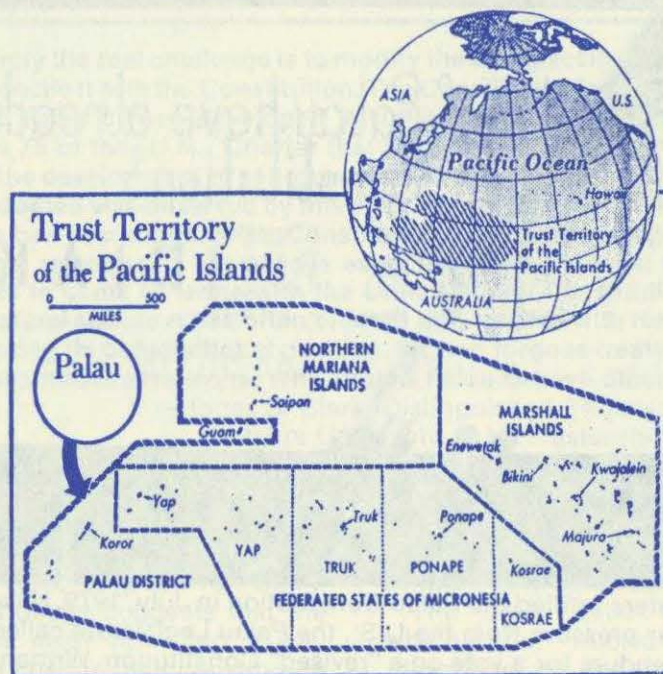
controversy went to the courts, American authorities in the trust territory allowed the referendum to take place under U.N. observation.

On July 9, the constitution was ratified by an unprecedented margin of 92 to 8 percent despite intimidation, including physical threats, against the U.N. observers and the public. After the vote, however, U.S. High Commissioner Adrian Winkel, an appointee of President Carter and the highest American representative in the trust territory, permitted the legislature to establish a commission to write a new constitution satisfactory to the U.S. government. Later in the month, the chief justice of the Trust Territory High Court, an American appointed by the Interior Department, upheld the legislature's action to nullify the constitution and the referendum results.

In August, the legislature-appointed commission completed its work on the second constitution.

On Sept. 4, Palauan voters again went to the polls, this time to elect a new legislature. All but one of the

28 seats were won by candidates running on a platform to revive the first constitution.



By Dave Cook — The Washington Post

The United Nations, which observed the July 9 voting, **has not been invited to witness** next Tuesday's referendum, which was inspired by Rosenblatt and which the legislature has spent thousands of dollars to influence.

The Carter administration argues that the second constitution is necessary if the United States is going to enter into a free association with Palau. Negotiations on this new semi-independent status, however, have not been completed; it would be unfair, therefore, for the United States to require that the Palauans design a constitution that fits the U.S. conception of free association. (On October 23, 1979 Palauan voters rejected this "revised" Constitution by a 70% margin. In July 1980, the original nuclear-free Constitution was reapproved by a 78% majority. —Ed. note)

Francisco Uludong, a native of Palau, was formerly Saipan bureau chief of the Pacific Daily News, a Gannett newspaper. In 1979, he was on leave as a Dag Hammarskjöld fellow at the United Nations in New York.

From the **Washington Post**, October 21, 1979

Grass Roots People Say 'No' to Military

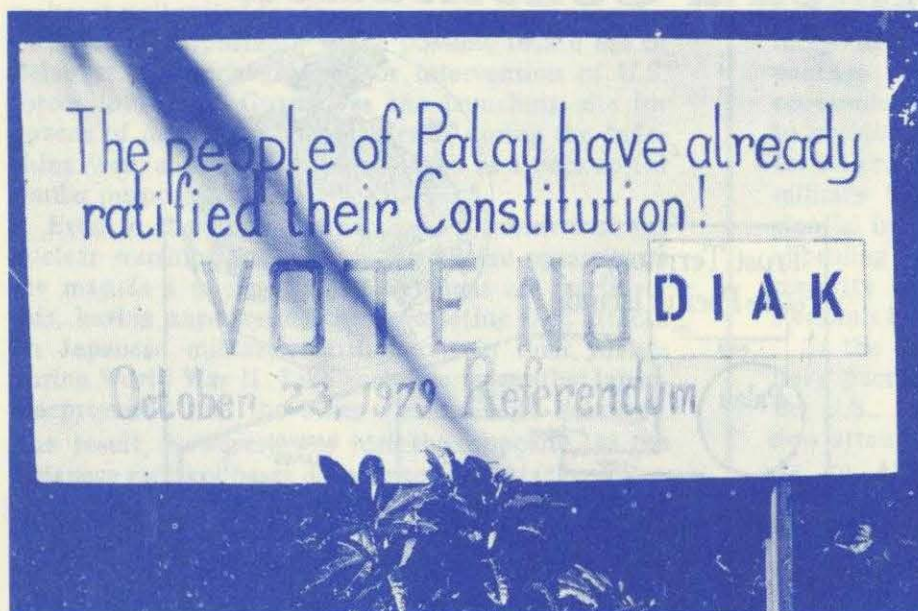


Photo by Douglas Faulkner

92% of the voters ratified the Palau Constitution in July, 1979. Nevertheless, under pressure from the U.S., the Palau Legislature called a second referendum for a vote on a "revised" Constitution. Written to U.S. specifications, it was rejected on October 23, 1979.

by David Wallechinsky

The Republic of Belau in Micronesia was the first nation to create a constitution that bars nuclear weapons and materials from crossing its borders. But the government of the United States could have other plans for Belau: (1) a 30,000-acre jungle warfare training base that would occupy one-third of the main island of Babeldaob; (2) expansion of two airfields for use by U.S. and other foreign military planes, including fast-speed, heavy transport jets; (3) exclusive use of a large part of Malakal Harbor, possibly as a service stop for the Trident nuclear submarine; and (4) a 2000-acre storage base for nuclear and conventional weapons. The people of Belau ask: How would you like to have a training base or an ammo dump in *your* neighborhood?

Belau, always in demand among colonial powers, was captured from Germany by the Japanese in World War I. In 1944, the Japanese themselves were driven out by the U.S. The Japanese occupation had been oppressive, but Belau did develop a diversified economy, deriving revenues from mining, agriculture, fishing and small

industries. Also, the streets of Koror, the capital of Belau, were paved.

After World War II, the UN assigned the Pacific Islands of Micronesia—including Belau—to the U.S. as a trust territory. But because of their strategic importance, there was little interest in helping the islands regain autonomy.

As one of their first acts, U.S. military leaders ordered the roads and 95 percent of all substantial buildings destroyed, asserting that they were reminders of Japanese imperialism. Today, Belau has fewer paved roads than it did 45 years ago. The once-thriving economy has given way to a welfare state in which the No. 1 industry is government. Belau has 1200 government employees whose salaries consume 80 percent of the national budget. If the U.S. had the same proportion of government bureaucrats, there would be 18 million people on the federal payroll instead of 3 million.

Financial assistance from the U.S. has provided cars, TVs, laundromats with video games, sugar-coated breakfast cereals, and 14

brands of deodorant. This dubious prosperity has been created artificially through salaries to government employees rather than by developing a self-sustaining economy.

But despite their strong feelings, the inhabitants of the remote islands were in a dilemma. On the one hand, they didn't want the U.S. military presence polluting their air, unsettling their homes, disrupting their fishing and destroying the beauty of their land. On the other hand, the people of Belau had become dependent on American handouts.

United States officials insist that Belau's constitution can be modified by a three-fourth's majority vote of the people. So confident of this is the U.S. that, residents say, the military has already laid the groundwork for the militarization of Belau. Aichi Kumangai, the village magistrate of Ngardmau, told me how he was visited by military officials in 1980. His clan owns half the land that the Pentagon has designated for munitions storage. The officials explained their plan for fencing off the area they wanted. They also warned the villagers that they would have to stay at least three miles away whenever munitions were being loaded or unloaded. Kumangai told me that the people of Ngardmau objected immediately and that they remain opposed to the plan.

The U.S. authorities have been campaigning to win Belau's approval of the compact. They have argued that military bases would protect Belau from invasion by the USSR. But older citizens of Belau remind the young that this same argument had been used by the Japanese to persuade Belau to allow *them* to build military bases against possible invasion by the United States. Instead of protecting Belau, they actually drew the attention of the Americans, and Belau was shattered by warfare, highlighted by the bloody battle of Peleliu. The people of Belau fear that the presence of U.S. military bases

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Legal Implications of Palau Vote

by Joel Miles

Months have passed since the plebiscite on the Compact of Free Association between the Republic of Palau and the United States, but because of the conflicting interpretations of the results of that plebiscite, the final outcome may eventually be decided in international courts of law. In light of this problem, the Micronesia Support Committee requested Roger S. Clark, Professor of International Law at Rutgers University, an internationally respected expert on international law, for an analysis of the issues. Prof. Clark kindly responded with a ten-page memorandum, prepared with the collaboration of experts in constitutional law and other attorneys familiar with the Compact and its history. This article summarizes and comments on Prof. Clark's memorandum.

The final results of the plebiscite were as follows:

The Compact:

Yes—4,452 (62%); No—2,715

The Nuclear Provision:

Yes—3,717 (53%); No—3,309

The official United States State Department position on this result, as stated in a press release on February 23, 1983, is that the second question was "an internal referendum question," and that "the Palauan authorities must now devise an acceptable method of reconciling their constitutional provisions to comply with the

"Surely the real challenge is to modify the Compact in such a way as to reconcile it with the Constitution. The Constitution is the fundamental law of Palau. It was developed in fulfillment of the requirement of Article 76 of the [U.N.] Charter that the administering authority promote the development of self-government. The referendum at which it was adopted was observed by this body. I am not aware that the United States has ever modified its Constitution in order to engage in international relations. It has always expected other potential parties to treaties to come to terms with the United States Constitution. In the multilateral sphere it has often entered into treaties with reservations protecting its constitutional position. It often forgoes treaty relations for constitutional reasons. Why should Palau behave otherwise?"

—Roger S. Clark, Distinguished Professor of Law,
Rutgers University. U.N. Trusteeship Council,
May 20, 1983.

mandate of the Palauan electorate for free association with the United States." According to Prof. Clark, "This language suggests that the Palauans must now find a way either to change their constitution or to try again to obtain voter approval for the Compact package as negotiated." He adds, "This seems unlikely." MSC agrees.

The government and people of Palau have consistently opposed the use, storage, or disposal of nuclear weapons, power plants, or their wastes since the issue was first raised in 1972. The February plebiscite was the fourth time in as many years that the Palauan voters have gone on record at the polls in support of the anti-nuclear provisions of their constitution. Does the United States government really believe that the people

of Palau will now change their position overnight, or are they simply trying to cloud the issue?

The basic issue at hand is whether the "nuclear provision" (described on the ballot as the "agreement on radioactive, chemical and biological substances concluded pursuant to Section 314 of the Compact," and referred to by Prof. Clark as "The Radioactive Agreement") is truly an "internal" question, or whether the Radioactive Agreement is in fact an integral and inseparable part of the Compact of Free Association. According to Prof. Clark, the two are inseparable, and the failure of the Radioactive Agreement to obtain a 75% majority of the votes cast "means that the Compact package...was defeated in the plebiscite." He

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similarly would make them a target of Soviet missiles. As Otaor, the village chief, said: "We have



suffered through a war that was not of our making, and we do not want it to happen again."

United States officials deny charges that they intend to build a Trident submarine base in Belau. Zeder called the idea "the most ridiculous thing I've ever read," arguing that the range of the Trident makes such a base unnecessary and that it would be too expensive to build. But the Belauans are understandably wary. If the U.S. is not planning to build a Trident base, they ask, then

why won't it add a clause to that effect to the Compact of Free Association?

Speaking for his village, which is unanimously opposed to the military presence, Ngirturong Otaor sent this formal message from the other side of the world: "Please convey to the U.S. people and government that we do not want the U.S. military to come."

(Excerpted from *Parade Magazine*
October 24, 1982.)

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concludes, therefore, that rather than continuing their futile attempts to force the Palauans to change their constitution, **"the time is in fact ripe for the United States to consult with Palau in order to find a way to reconcile the status of free association apparently desired by the voters with the provisions of the Palau Constitution."** This opinion is based on "(A) the relevant provisions of the Palau Constitution; (B) the language contained on the ballot; and (C) the provisions of Article I of the Radioactive Agreement."

The so-called "Palauan-American agreement" referred to by the U.S. press release as an "internal referendum question" is in reality, says Clark, "an amalgam of four separate but interlocking provisions of the Compact package:

Section 311 of the Compact
Section 312 of the Compact
Section 314 of the Compact
The Radioactive Agreement"

All four of these provisions do allow "use, testing, storage or disposal of nuclear, toxic chemical, gas or biological weapons intended for use in warfare," specifically prohibited by the Palau Constitution. Prof. Clark therefore states that "On a literal interpretation of Article II, Section 3 of the Constitution **the Compact itself** required a 75% majority. **The State Department's 'strong victory' of 62% was in fact a defeat.**" He adds that, "I do not see how the Palau legislature or executive could override the Constitution by presenting the issue in a different way. Nor do I see how the Palau and U.S. executives could override the Constitution. **An unconstitutional treaty is just that—unconstitutional.**"

In addressing the question of the ballot wording, Prof. Clark begins by quoting from the ballot:

"BEFORE THE COMPACT CAN TAKE EFFECT SECTION 314 UNDER QUESTION (B) BELOW MUST ALSO BE APPROVED BY AT LEAST SEVENTYFIVE PERCENT (75%) OF THE VOTES CAST.

(B) Do you approve of the Agreement concerning radioac-

tive, chemical and biological materials concluded pursuant to Section 314 of the Compact of Free Association?"

Prof. Clark's examination of the drafting history of the ballot makes it quite clear that the United States not only concurred beforehand in the wording of the ballot, but in fact **dictated** the language to Palau Ambassador Salii in a telegram on November 11, 1982. He concludes that, **"The United States, having acquiesced in, or perhaps even insisted upon, the way in which the issue was presented to the voters, is surely bound by the results.** The voters were asked for a 75% majority; they did not give it; Section 314 and the Agreement were defeated. The Compact cannot take effect."

Prof. Clark's treatment of the Radioactive Agreement is equally to the point, and is brief enough to be quoted in full:

"Article I of the Radioactive Agreement provides:

"In accordance with Article II, Section 3, and Article XIII, Section 6, of the Constitution of the Republic of Palau, the Government of Palau shall seek approval of this Agreement by not less than three-fourths of the votes cast in a referendum in which this specific question shall be presented in conjunction with the plebiscite on the Compact.



Photo by Syunji Arakawa

"By the Preamble and Article II of the Agreement, Section 314 of Compact was to be 'incorporated by reference into, and become a part of' the Agreement.

"The Government of Palau did just what it promised to do. It sought approval of the Agreement in a referendum 'in conjunction with' the referendum on the plebiscite. It failed to obtain the necessary votes. The agreement incorporating Section 314 was defeated. The Compact cannot 'take effect.'"

Whatever one's position on the merits—or lack thereof—of the Compact of Free Association, Prof. Clark's arguments show quite clearly that the Compact, in its present form, with its present subsidiary agreements, has been rejected by the Palauan voters, who knew quite clearly what they were doing. The important question at this point, therefore, is not whether or not the Compact has been approved, nor how to go about implementing it; the Compact is legally dead. The issue to be dealt with now is what options are still available.

As Prof. Clark states in his memo to MSC, "The United States has obligations under the Trusteeship Agreement. One of those obligations is to promote the progressive development of the Trust Territory towards self-

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"Respect Our Culture": Chief Ibedul

There are many reasons why the Compact, in its present form, is not acceptable to the people of Palau. Some are obvious. Some not so obvious. I need not dwell on Section 314. In accordance with our Constitution, the people have overwhelmingly delivered a message that we do not wish to have nuclear and other harmful substances in Palau. We are a peace loving people. We have tasted the horrors of war. In exercising our right to self-determination, we now choose not to be placed in a similar position again. We simply say to the United States, let us live in peace without becoming a military puppet. Give us our right to self-determination and do not impose upon us the horrors and terror which may follow from the introduction of nuclear weapons into Palau.

The other reasons why the Compact, in its present form, is not acceptable to the people of Palau may be somewhat less obvious. Let me remind you that Article 73 of the Charter of United Nations mandates the administering authority recognize that the interests of the inhabitants of Palau are paramount and that in ensuring the political, economic, social and educational advancement of the people, the administering authority shall always give "due respect to the culture of the peoples concerned." These guiding principles have not been followed in the Compact in its present form.

Culturally and traditionally, the traditional leaders of Palau, the Council of Chiefs, must be closely consulted on any issue as sensitive as the land use rights which are granted to the United States under the Compact. The land system in Palau emanates from the traditional clan system. Our clan system is still strong and viable after several thousand years of experience. This explains why, during the recent plebiscite, 5 of the 8 states in which the United States would have either exclusive or joint use of land, including the state of Koror where over 65% of all Palauans reside, voted against not only Section 314 but also the Compact as a whole.

To successfully implement a compact in Palau which gives the United States use of our precious lands, close consultation and agreement with our traditional council of chiefs is absolutely essential. As a practical matter, regardless of the assurances of the Palauan administration, without such consultation and agreement, it will be impossible to implement and effectuate a compact involving joint or exclusive use of land. The people and the traditional leaders will not stand idly by and permit their lands to be confiscated contrary to the constitutional safeguards which exist. Too much is at stake! Too much is inconsistent with the basic tenets of the United Nations Charter giving due respect to the culture of the peoples concerned. Until the United States recognizes and comes to grips with this basic point, there will not be a viable Compact of Free Association.

The traditional leaders of Palau do not believe that the United States has honored its obligations under the trusteeship agreement to promote the economic advancement and self-sufficiency of the inhabitants of Palau. To this end, for a compact to be viable, due

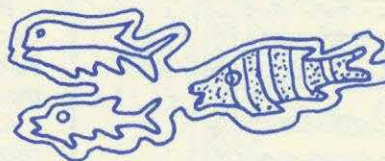
Photo by Douglas Faulkner



recognition of this fact must be given and provisions in the area of capital improvement projects must accommodate this concern. Thus, there must be a renegotiation of the Compact dealing with capital improvement projects designed to create an infrastructure which will enable Palau to realize economic self-sufficiency.

The people of Palau welcome and embrace the concept of a relationship of free association with the United States. The United States is our friend and we recognize that. But, the United States must realize that a commitment to a compact will have a profound effect for many years to come. Accordingly, we must exercise the utmost care in approving a viable compact. Contrary to the last plebiscite, the people must be fully and impartially informed and educated regarding the choice they are being asked to make. It cannot and should not be thrust upon them. Instead, once a compact is negotiated which satisfies the elected government **and** the traditional leaders, then, a slow, deliberative process of fair and impartial education must be afforded the people. If this is done, not in a political arena, but rather in accordance with our customs and traditions designed to reach a consensus of the people, a true and meaningful relationship between our two countries will be the ultimate outcome. As a traditional paramount leader of Palau, I ask the United States to open a dialogue which will be consistent with our customs and traditions.

(Excerpted from a statement by Palau High Chief Ibedul to the U.N. Trusteeship Council, New York, May 18, 1983.)



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government or independence... If it is acting as a trustee, the United States must surely avoid heavy-handed efforts to have the Constitution (of Palau) conform to what the United States wants." This is a point that the U.S. would do well to consider, particularly in light of the fact that four attempts in four years to get the Palauan people to change their constitution have met with failure.

The United States Government would be wise to heed Prof. Clark's closing paragraph, and use it as a guide to future actions on their part:

"There is not much doubt that there is strong sentiment in Palau for some kind of free association but without the military implications currently contained in the Radioactive Agreement, Section 314 of the Compact and possibly the Agreement regarding the Military Use and Operating Rights of the United States. I had the distinct impression two or three years ago that the United States' bottom line was 'denial' plus transit and overflight rights for its nuclear powered and nuclear armed vessels. They negotiated for much more than this as part of the Compact package. Has not the time come to negotiate another Compact package which contains the United States' irreducible minimum and to present that to the voters? If the voters will not buy that, then both sides have to face up to independence.

There are smaller Pacific mini-states than Palau that are surviving in the international community. There is nothing in the United Nations Charter which binds the people of the Trust Territory to permanent servitude to security interests as defined in Washington."

(Joel Miles, a resident of Palau for many years, is currently doing graduate work at the East West Center in Honolulu.)

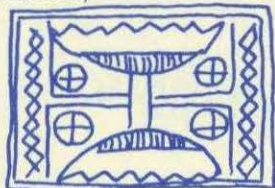


Photo by Douglas Faulkner



Aerial photo showing Koror, the capital of Palau. In the right foreground is Malakal Harbor, the main commercial port and site of a proposed military installation.

FOR FURTHER INFORMATION

For further information on the legal/political issues raised by the Palau plebiscite and the Compact of Free Association, contact:

1. Prof. Roger Clark, Rutgers University Law School, Camden, N.J., 08102. (609) 757-6390 (w).

2. Prof. Howard Anawalt, University of Santa Clara Law School, Santa Clara, CA. 95051. (408) 984-4443 (w).

(Copies of Prof. Clark's 10-page memorandum are available from MSC. See coupon for details.)

Declaration of Traditional Leaders

"Since Section 314 . . . is an integral part of the Compact of Free Association and . . . did not receive 75% of the votes cast in the referendum and plebiscite, there can be no other conclusion but that the Compact of Free Association, in its present form, has been defeated by a vote of the people of Palau and is now dead . . .

"The message delivered by the people of Palau in the referendum is:

A. The Compact of Free Association, in its present form, is not acceptable to the people of Palau;

B. The nuclear provisions of Section 314 of the Compact of Free Association are not acceptable to the people of Palau;

C. The sensitive issues regarding land use rights may only

be resolved by close consultation with and agreement by the traditional leaders of Palau, consistent with the Constitutional requirements of the Republic of Palau;

D. The Government of the United States of America has failed to honor its obligations under the United Nations Trusteeship Agreement to promote the economic advancement and self-sufficiency of the inhabitants of Palau. Accordingly, for any future Compact to be acceptable, it must take that fact into account and initially provide for a satisfaction of that obligation.

(Excerpted from a Declaration by the Traditional Council of Chiefs made in Koror, Palau February 23, 1983.)

Summary

Prof. Clark's memorandum, the statements by the traditional leaders in Palau and the Palau Senate Resolution #87 all underline the legal and political reasons that the Compact of Free Association, in its present form, has been defeated by Palauan voters, despite State Department statements to the contrary. The Constitution of the Republic of Palau is the supreme law of the land. The Compact, because it is incompatible with the Constitution, is therefore an unconstitutional treaty.

Nevertheless, Palau President Haruo Remeliik announced in early May, 1983 that the Compact, **without** the controversial nuclear provision (Section 314), will be put into force by late 1983. The U.S. has, however, stated clearly that it will **not** accept the Compact **without** the nuclear provision, nor will it renegotiate the Compact. Thus the President's statement suggests State Department support for this plan to implement the Compact, as does the State Department's creation of a "transition office" in Palau for implementation of the Compact. Implementation of

the Compact and its large scale aid program will make it increasingly difficult for Palauans to defend the integrity of their Constitution.

As the U.S. continued to press the Palauans to "reconcile" their Constitution with U.S. military plans embodied in the Compact of Free Association, the very issues of democracy, and the right of Palauans to self-determine their future free of nuclear weapons are at stake.



WHAT CAN YOU DO?

Your action is needed to support Palau's right to self-determine its future political status. The following are different ways you can help:

1. **In the U.S.:** Provide your Congresspeople with information on the Palau situation. Secondly, urge your Congresspeople to request a General Accounting Office (GAO) audit of the more than \$315,000 of federal funds spent on political "education" in Palau. Thirdly, request that oversight hearings be held to investigate U.S. State Department actions in Palau and for a review of the process for terminating the Trusteeship, now at an impasse.
2. Ask members of your church group, anti-nuclear or other organizations to write or call their Congresspeople. There are no votes in Micronesia, so Congresspeople will only take action if their constituents raise the issue.
3. **Internationally:** Provide your United Nations delegation with information on Palau and request that they protest the rush to implement the Compact of Free Association.
4. Provide material to your local media and write letters to the editor.
5. Write the Micronesia Support Committee for a slide presentation on Micronesia and other information to take to your community organization for further education on the issues.
6. Receive regular Palau Action Alerts from the Pacific Concerns Resource Center, P.O. Box 27692, Honolulu, Hawaii 96827.
7. Contact the U.S. Nuclear Free Pacific Network, 942 Market Street, Room 711, San Francisco, CA 94102, (415) 434-2988 for U.S. Congress updates and additional information on Palau and Micronesia.

The following Congresspeople are on committees that have jurisdiction over Micronesia. Please contact them, in addition to your own Congresspeople:

- Rep. Morris Udall (AZ)
Chairman, Interior and Insular Affairs Committee
- Rep. John Seiberling (OH)
Chairman, Subcommittee on Public Lands and National Parks
- Rep. Sidney Yates (IL)
Chairman, Subcommittee on Interior Appropriations
- Rep. Donald Dellums (CA)
Chairman, Subcommittee on Military Installations and Facilities
- Rep. Jim Weaver (OR)
Interior and Insular Affairs Committee
- Rep. Les AuCoin (OR)
Appropriations Committee
- Sen. Spark Matsunaga (HI)
Energy and Natural Resources Committee
- Sen. Gary Hart (CO)
Armed Services Committee

Address:

U.S. Senate, Washington, D.C. 20510
U.S. House of Representatives,
Washington, D.C. 20515



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Palauans should know

The people of the Palau Islands of the Western Pacific know well the wages of war, and they want no more of them.

In the late 1930s, as Japan fortified the Micronesian Islands just before the Pacific war, Palauans were told that their military installations 500 miles east of the Philippines would protect them.

When war erupted, the Palauan bases were instead magnets for American attacks. The luxuriant volcanic and limestone islands became the focus of fierce fighting that showered death and destruction on them, killing tens of thousands of Americans, Japanese and Palauans.

By 1945, the population of the tiny islands was only one-fifth what it had been a century earlier.

Citing an island proverb that "when soldiers come, war comes," the 15,000 people of Palau have adopted the world's first constitution banning nuclear weapons on their

soil.

The constitution was adopted in 1979 as a prelude to a change in the political status of the islands. Palau has been administered by the United States as a United Nations trust territory since 1947.

Now, the United States, which wants to build a network of military installations on one-third of the islands' 170 square-mile territory, wants that constitution changed as the price for a 50-year, \$1 billion aid package and a measure of independence for the islands.

On Feb. 10, more than 60 percent of Palau's voters backed part of the deal, called a Compact of Free Association. But a companion measure that would have nullified the nuclear ban received only about 50 percent of the votes — far from the three-fourths majority needed for a constitutional amendment.

The islands are crucial to U.S. plans for Micronesian bases as fall-back positions to

facilities in the Philippines and Japan.

Back in 1972, the Pentagon specified what it wanted: 32,000 acres of one island for jungle warfare training and nuclear storage facilities; rights of way for landing craft and troops on assault training maneuvers; the use of the port as a transit base for nuclear submarines and warships and the right to train foreign troops — possibly making Palau an Asian version of the Army's training school in Panama where U.S. advisers train security forces for U.S.-backed Latin American governments.

That was what the Palauans rejected on Feb. 10...

"We don't want any form of military to come. What's wrong with our life today? We go fishing and to our garden and get food and cook it. If you need some money you take vegetables to market. What's the matter with this?"

To bring these two world views together could well be an impossible task. If so, there is little question that the Palauans' moral mandate should prevail.

Sunday, February 20, 1983



Information Available from MSC:

Printed Material:

1. **From Trusteeship to...?—Micronesia And Its Future**, a 68-page, fully illustrated booklet with a history and chronology of events of the political status talks in Micronesia, and featuring an analysis of the Compact of Free Association. In U.S. mail zones: \$4.50 surface; \$5.50 airmail. Overseas: \$4.50 surface; \$6.50 airmail. In Micronesia: \$3.50 airmail.
2. Memorandum on the Palau Plebiscite, March 29, 1983 by international law Professor Roger S. Clark. 10 pages—\$1.
3. "Self Determination and Free Association: Should the United Nations Terminate the Pacific Islands Trust?" by Roger S. Clark. Harvard International Law Journal, Winter, 1980. An 86-page review of the development of the Compact of Free Association and the Marianas Commonwealth. Discusses whether these political statuses meet up to the U.N.'s minimum requirements for terminating a Trusteeship. Over 400 footnotes. \$7.50.
4. **Marshall Islands Chronology, 1944-1981**, a 40-page, illustrated booklet focusing on the nuclear weapons testing, health problems resulting from people's exposure to radioactive fallout and resettlements of people. In U.S. mail zones: \$3 first class; Overseas: \$4 airmail.
5. **MSC Bulletin Special Issue**, Summer 1982. 62 pages, with illustrations. A collection of articles between 1975-1982, providing background on political status developments, economic development issues, military plans, CIA activity, nuclear waste dumping and nuclear tests, and health in Micronesia. \$3.
6. **Ebeye, Marshall Islands: A Public Health Hazard**, by Gregory Dever, M.D. 28 pages, focusing on health and social conditions on Ebeye Island, next to the Kwajalein Missile Range. \$3.
7. **MSC Bulletin**. Issued quarterly. One year subscription is \$5 for individuals/\$10 for groups. Internationally, add \$2.50 for airmail.

8. *The Pentagon Stalks Micronesia: Strategic Interests vs. Self Determination*, by Giff Johnson. An 8-page reprint providing an overview of the U.S. administration of Micronesia, with a focus on past, present and future military activity. 50¢
9. *Kwajalein: Home on the "Range"*, by Darlene Keju and Giff Johnson. An 8-page reprint on the development on the Kwajalein Missile Range, Ebeye and Operation Homecoming, the 1982 sail-in protest. 50¢

Slide presentations:

1. **Micronesia: America's Strategic Islands**. A 129-slide, 25 minute presentation overview of Micronesia under American administration. Write for brochure with more details. Purchase price is \$75 for individuals or non-profit groups; \$100 for institutions. It is also available for rent.
2. **Marshall Islands: America's Radioactive "Trust"** A 118-slide, 25 minute show focusing on the nuclear testing, resettlement of people and health effects of radiation exposure. Costs are same as above.



Please send me:

- ☐ The following publications _____
- _____
- ☐ Information of MSC slide presentations.
- ☐ MSC's quarterly *Bulletin*. Enclosed is my subscription (\$5 individual/\$10 organization).
- ☐ Extra copies of this publication - \$1 each (bulk rates on request).
- ☐ I enclose a total of \$ _____

NAME: _____ ADDRESS: _____

Return to: Micronesia Support Committee, 1212 University Ave., Honolulu, HI 96826

